

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOHN DOES A-H,
MARY DOE AND MARY ROE,
On behalf of themselves and all others
Similarly situated,

Plaintiffs,

Case No. 2:22-cv-10209
Hon. Mark A. Goldsmith

Vs.

GRETCHEN WHITMER, Governor
Of the State of Michigan, and COL.
JOSEPH GASPER, Director of the
Michigan State Police, in their
Official capacities,

Defendants.

**ALYSON OLIVER AND PAUL MATOUKA OF
OLIVER LAW GROUP P.C.'s RESPONSE IN OPPOSITION TO
PLAINTIFFS' MOTION FOR CLASS CERTIFICATION AND
APPOINTMENT OF COUNSEL AND REQUEST FOR CONSIDERATION
OF APPOINTMENT AS LEAD CLASS COUNSEL**

Pro se litigants filed related case *Does v. Gasper et. al.*, Case No. 2:21-cv-12843 on November 17, 2021. On January 13, 2022, this Court appointed Alyson Oliver to represent the Plaintiff's and the putative class. After diligent review and consideration of the time needed to litigate this case, Ms. Oliver accepted the appointment and has been working on this case since that time. An Amended

Complaint, Motion for Class Certification and Appointment of Class Counsel and other pleadings have ensued. In that matter, Alyson Oliver and Paul Matouka have moved to be appointed class counsel. Ms. Oliver had been in communication with proposed class counsel, Miriam Aukerman and Paul Rheingold, prior to their filing in this case, and offered to work together in as much as the cases overlap. That offer was rejected, and thereafter this case was filed in February 2022, listing Case No. 2:21-cv-12843 as a related case. Apparently, the plan of counsel in this case is to subsume Case No. 2:21-cv-12843 with their later filed action; and force out undersigned counsel. That plan is expressly objected to by the undersigned.

Rule 23(g) sets out the criteria and procedures for appointment of class counsel. In every case, the judge must inquire into the work counsel has done in investigating and identifying the particular case; counsel's experience in handling class actions, other complex litigation, and claims of the type asserted in the action; counsel's knowledge of the applicable law; the resources counsel will commit to representing the class; and any other factors that bear on the attorney's ability to represent the class fairly and adequately. This last category may include the ability to coordinate the litigation with other state and federal class and individual actions involving the same subject matter.

To satisfy the adequacy requirement, class counsel must be able to vigorously prosecute the interests of a class. *Jackson's Five Star Catering, Inc. v. Beason*, No.

10-CV-10010, 2012 WL 3205526, *2 n.2 (E.D. Mich. July 26, 2012) (quoting *In re Am. Med. Sys., Inc.*, 75 F.3d 1069, 1083 (6th Cir. 1996)). “Whether the class representatives satisfy the adequacy requirement depends on ‘the qualifications of counsel for the representatives, an absence of antagonism, a sharing of interests between representatives and absentees, and the unlikelihood that the suit is collusive.’” *Walters v. Reno*, 145 F.3d at 1046, cert. denied, 526 U.S. 1003 (1999) (citation omitted).

As Alyson Oliver's curriculum vitae reflects, she has been appointed time and time again both in Michigan and nationally to leadership positions in complex litigation, including class actions and multi-district litigation. These appointments reflect a broad recognition of leadership and litigation skills by scores of Federal and State court judges alike. In addition, Alyson Oliver has a strong background in criminal defense, focusing almost a decade of her 23-year career in this field of law.¹ Alyson Oliver’s near decade of experience in criminal defense provides a depth of understanding into the issues in play in this case, particularly the difficulties encountered by SORA registrants in understanding and attempting to comply with very complicated provisions and the punitive effect of SORA on registrants.

¹ Indeed, Ms. Oliver successfully tried *People v. Mark Holsworth*, Oakland County Case No. 2004-195788-FH before your Honor in 2004 when your Honor was first appointed to the bench. That case was a 3rd Degree Criminal Sexual Conduct (force) case resulting in a hung jury and subsequent beneficial plea offer.

In addition to the other complex civil cases listed in Alyson Oliver's curriculum vitae, Oliver Law Group P.C. and Alyson Oliver initially filed the successful class litigation *Doe v. Snyder*, 449 F.Supp.3d 719, 735–36 (E.D. Mich. 2020) on August 30, 2016, which ultimately resulting in a finding of unconstitutionality on several grounds of Old SORA. On September 28, 2016, Alyson Oliver moved for class certification in that case and appointment of herself as class counsel. When Miriam Aukerman and Paul Rheingold (the same counsel in this case seemingly unwilling to work with the undersigned) inquired about joining in that case, Alyson Oliver invited them into the litigation as co-counsel and amended the Motion to Certify Class and Appoint Class Counsel in that matter to accommodate them as co-counsel on June 28, 2018. That case has since been successfully resolved as a result of Ms. Oliver's willingness to coordinate and cooperate with other Plaintiff's counsel, and all of Plaintiff's attorneys cooperating in prosecuting the litigation. In short, in weighing the ability to coordinate the litigation with other state and federal class and individual actions involving the same subject matter, Oliver Law Group has a proven record not only overall in successfully leading cohesive and cooperating counsel in a broad range of litigations, but in fact with the very counsels involved in this matter.

As to the adequacy of counsel, that requirement is met where “class counsel are qualified, experienced and generally able to conduct the litigation *Walters, Id.* Here the proposed class counsel are Alyson Oliver and Paul Matouka of the Oliver Law Group, who have vast experience in criminal defense of the same class of people as will be represented in this case and national as well as state specific complex and high stakes litigation, including class litigation regarding the constitutionality of SORA. **Exhibit 1, Curriculum Vitaes.** Additionally, in serving on multiple coordinated proceedings in leadership roles in federal courts nationally, Alyson Oliver has had the exposure to the value the judiciary places on cooperation between counsel in coordinated proceedings; it is often one of the determining factors as to whether proposed counsel will be considered for such positions. Especially here, where there will likely be additional related cases filed, it will be imperative that class counsel that this Court may appoint is willing to work with any counsel whose cases may be involved in or effected by the litigation. As the old adage holds, "actions speak louder than words"; the undersigned have actively and repeatedly demonstrated appreciation of the need for cooperation and the ability to do so in all consolidated cases in which it is involved and will do so in this case.

Alyson Oliver and Paul Matouka have the time, resources, and expertise to appropriately prosecute the case and successfully coordinate this proceeding with the first-filed case *Does v. Gasper et. al.*, Case No 2:21-cv-12843. Accordingly, the

Court should find Alyson Oliver and Paul Matouka adequate under Rule 23(a)(4), and appoint them under Rule 23(g)(1), as lead class counsel in both actions.

Respectfully Submitted,

OLIVER LAW GROUP PC

March 9, 2022

/s/Alyson Oliver

/s/Paul Matouka

1647 W. Big Beaver Road

Troy, MI 48084

(248) 327-6556

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CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2022, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to all parties that are CM/ECF participants in this action.

OLIVER LAW GROUP, P.C.

/s/Alyson Oliver

Attorney for Plaintiffs

OLIVER LAW GROUP PC

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Exhibit 1

Alyson Oliver, Esq.

aoliver@oliverlawgroup.com

1647 W. Big Beaver Rd.

Troy, MI 48084

Curriculum Vitae

Legal Excellence & Professionalism.

With a multi-faceted career spanning over 20 years, Alyson Oliver's experience as a lawyer and managing partner of the Oliver Law Group P.C. has provided a solid foundation for handling intricate litigation. Oliver has thrived over the years on challenging courtroom battles and victories. As a dynamic lawyer, she is a diligent advocate for her clients. Oliver is skilled in all phases of litigation from the preparation and discovery phases through negotiations, hearings, and trials. Oliver has an innate ability to identify and digest legal issues and explain them to clients and juries in non-legal jargon that allows for ease of understanding. Oliver has represented classes, individuals and the community at large, often in complex matters. Oliver is well suited to handle with experience, effectiveness and efficiency the legal needs of clients, including in matters such as:

- ☐ Civil Rights Litigation
- ☐ Product Liability Litigation
- ☐ Class Action Litigation
- ☐ Personal Injury Litigation
- ☐ Dispute Resolution
- ☐ Criminal Litigation
- ☐ Mass Tort Litigation
- ☐ Employment Litigation and Compliance
- ☐ Business Litigation
- ☐ Antitrust and Competitive Concerns

Curriculum Vitae Highlights.

- Ten years of progressive trial experience in primary practice of criminal law that provided enormous trial exposure, prior to electing to move into civil litigation and ultimately complex litigation.
- Presenter of oral argument at Judicial Panel of Multi-District Litigation (JPML) in efforts to consolidate national litigations in MDL proceedings in *Imprelis* litigation and *Transvaginal Mesh* litigation.
- Appointed to leadership positions in:

Rouse et al v. Washington et al, Constitutional /Class Action Litigation

(class action concerning Eighth Amendment violations related to the COVID-19 pandemic)

- United States District Court for the Eastern District of Michigan
- Case No. 2:20-cv-11409
- *Appointed Class Counsel*

Rouse et al v. Whitmer et al, Constitutional /Class Action Litigation

(class action concerning violations of the Religious Land Use and Institutionalized Persons Act, the Equal Protection Clause of the Fourteenth Amendment, and state law claims).

- United States District Court for the Eastern District of Michigan
- Case No. 2:20-cv-12308
- *Appointed Class Counsel*

Alexander et al v. Hall et al, Constitutional/Putative Class Action Litigation

(putative class action concerning unconstitutional conditions of confinement at Parchman prison)

- United States District Court for the Northern District of Mississippi
- Case No. 4:20-cv-00021

Does II v. Snyder, Constitutional/Class Action Litigation

(concerning constitutionality of Old SORA)

- United States District Court for the Eastern District of Michigan
- Case No. 2:16-cv-13137
- *Appointed Co-Lead Counsel*

Jackson, et al v. Mastronardi Produce Limited, et al Wage/Hour Class Action Litigation

- United States District Court for the Eastern District of Michigan
- Case No. 2:11-cv-11525
- *Appointed Co-Lead Counsel*

In re Philips cPap B-Level Pap, and Mechanical Ventilator Class and Personal Injury Product Liability Multi District Litigation

- United States District Court for the Western District of Pennsylvania
- Appointed to Time and Expense Committee
- MDL 3014

In re Valsartan Class and Personal Injury Product Liability Litigation Multi District Litigation

- United States District Court for New Jersey
- Appointed to Steering Committee
- MDL 2875

In re Packaged Seafood Class Action Antitrust Multi District Litigation

- United States District Court for the District of Southern California
- Case No. 3:15-cv-02169
- Appointed to Executive Committee

In re MI Windows & Doors Defective Construction Class Action Product Liability Multi District Litigation

- United States District Court for the District of South Carolina
- MDL No. 2333
- Appointed to Steering Committee

In re American Medical Systems, Inc. Pelvic Repair System Product Liability Multi District Litigation

- United States District Court for the Southern District of West Virginia
- MDL No. 2325
- Appointed to Steering Committee

In re Boston Scientific Corp. Pelvic Repair System Product Liability Multi District Litigation

- United States District Court for the Southern District of West Virginia
- Case No. 2:12-md-02326; MDL No. 2326
- Appointed to Steering Committee

In re Coloplast Corp. Pelvic Support Systems Product Liability Multi District Litigation

- United States District Court for the Southern District of West Virginia
- MDL No. 2387
- Appointed to Steering Committee

In re Cook Medical Inc. Pelvic Repair Systems Product Liability Multi District Litigation

- United States District Court for the Southern District of West Virginia
- MDL No. 2440
- Appointed Steering Committee

In re C.R. Bard, Inc. Pelvic Repair Systems Product Liability Multi District Litigation

- United States District Court for the Southern District of West Virginia
- MDL No. 2187
- Appointed to Steering Committee

In re Ethicon Inc. Pelvic Repair Systems Product Liability Multi District Litigation

- United States District Court for the Southern District of West Virginia
- MDL No. 2327
- Appointed to Steering Committee

In re Zimmer NexGen Knee Implant Product Liability Multi District Litigation

- United States District Court for the Northern District of Illinois
- MDL No. 2272
- Appointed to Steering Committee

In re Aluminum Antitrust Class Action Multi District Litigation

- United States District Court for the Southern District of New York
- MDL No. 2481
- Appointed to Steering Committee

State Court Bar Admissions.

Michigan, May 12, 1999

Texas, February 6, 2020

Federal Court Bar Admissions.

United States Court of Appeals
Sixth Circuit

United States District Court of Illinois
Central District and Southern District

United States District Court of Indiana
Northern District

United States District Court of Michigan
Eastern District and Western District

United States District Court of New York
Northern District

United States District Court of Ohio
Northern District

United States District Court of Texas
Southern District

United States District Court of Wisconsin
Eastern District

United States
Federal Court of
Claims

Special Appointments and Recognition.

- 4/15/2003| Pro Bono Recognition from Chief Judge Lawrence P. Zatkoff of the United States District Court, Eastern District of Michigan.
- 9/23/2008 - 2015| Pro Bono Recognition from Chief Judge Bernard Friedman of the United States District Court, Eastern District of Michigan.
- Named as a Top 100 Trial Attorney in America's Trial Lawyers Association; 2008-2019
- Named SuperLawyer; 2013-2019
- Named to Michigan State Bar's Consumer Protection Committee 2019, 2020, 2021 and currently serving as Chair-Elect

Nationwide Networking, Lectures, Publications.

Oliver understands and functions well in the business and litigation landscape. She has engaged in dozens of conferences, counsel meetings and symposiums involving hundreds of law firms in venues across the country that are designed to facilitate consensus, consider organizational structures and promote coordinated litigation efforts.

Oliver lectured at the national HarrisMartin Nexgen Zimmer Knee Litigation Conference in San Francisco regarding the Zimmer Nexgen litigation strategy. Oliver presented at the Transvaginal Mesh conference in Savannah, Georgia in November 2011. In September 2012, Oliver had a role in presenting regarding the Daubert considerations as it refers to metal-on-metal hip litigation in New York.

In the March, 2014 edition of Trial Magazine, Oliver was published on the issue of the Importance of Diversity of Leadership in Litigation. In 2022, Oliver was invited to the First Annual Mass Tort MDL Case Law and Practices Review Open Bench-Bar Conference.

Education.

B.A. 1994 – Oakland University

J.D. 1998- University of Detroit Mercy

Affiliations.

- American Association for Justice
 - Oakland County Bar Association
 - State Bar of Michigan
 - U.S. District Court Pro Bono Committee
 - Consumer Law Division, State Bar of Michigan
 - Federal Bar Association
 - Public Justice
 - American Trial Lawyers Association
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National Press Coverage.

Oliver has been involved in numerous cases that have sparked national and international interest. She has been interviewed and featured in print, online, on television and radio regarding her expertise and involvement with some of the nation's most interesting litigation. As a result, Oliver has been called upon and often quoted by leaders in with Fox 2 News Detroit, Daily Fox News, Channel 95.5 Detroit, Spin 1038 Radio in Dublin, Ireland, Entertainment Weekly, The New York Observer, Digital Spy, Yahoo! News, Entertainment Weekly, Business Wire, Rolling Stone, NBC, Channel 95.5 Detroit, My Fox Phoenix, Huffington Post, Reuters, ABC News, TV Guide, Billboard, Washington Post, Detroit Legal News, WXYZ Channel 7 Detroit, Lawyers USA, Washington Post, NY Times, Crains, Salon, Al Jazeera, Bloomberg News, NPR Radio, Law360, Rolling Stone and the National Law Journal.

Paul Matouka, Esq.

pmatouka@oliverlawgroup.com

1647 W. Big Beaver Rd.

Troy, MI 48084

Curriculum Vitae

Legal Experience & Professionalism.

While early on in his legal career, Paul Matouka already has a broad range of experience working on class action, civil rights, consumer rights, mass tort, environmental law, and international commercial arbitration cases. Paul also has extensive experience conducting legal research for his former professors in areas of constitutional, criminal, and international law. Paul is a dedicated advocate for his clients and works tirelessly to advance their interests.

Work Experience

Oliver Law Group, P.C., Troy, Michigan

Associate Attorney, January 2021–Present

- Draft pleadings, memoranda, and other legal documents.
- Research legal issues to develop new cases and legal theories.
- Conduct document review to identify evidence and evaluate strength of claims and defenses.
- Develop client claims, defenses, and long-term case strategy.
- Communicate with current clients to provide case updates and advice.
- Conduct potential client intakes and assesses merits of potential cases.
- Worked on complex civil rights litigation including:
 - *Alexander, et al. v. Hall, et al.*, No. 4:20-cv-DMB/JMV (N.D. Miss.) (putative class action concerning unconstitutional conditions of confinement for persons incarcerated in Mississippi).
 - *Rouse, et al. v. Washington, et al.*, No. 2:20-cv-11409 (E.D. Mich.) (class action concerning Eighth Amendment violations related to the COVID-19 pandemic).
 - *Rouse, et al. v. Whitmer, et al.*, No. 2:20-cv-12308 (E.D. Mich.) (putative class action concerning violations of the Religious Land Use and Institutionalized Persons Act, the Equal Protection Clause of the Fourteenth Amendment, and state law claims).

WilmerHale, London, England

Intern, September 2020–December 2020

- Conducted research and drafted memoranda on complex issues of domestic and international law.

Goodman Hurwitz & James, P.C., Detroit, Michigan

Law Clerk, May 2018–May 2020 (with intermittent time off for other obligations)

- Drafted memoranda and motions, assisted in document review, and conducted legal research and client intake interviews.

Great Lakes Environmental Law Center, Detroit, Michigan

Legal Intern, January–April 2019

- Conducted research and drafted memoranda and other documents.

Bureau of Land Management, Meeker, Colorado

Wildland Firefighter, May–August 2017, May–August 2016, May–August 2015

- Engaged in suppression and management operations on wildfires ranging from a single tree to tens of thousands of acres.
- Directed up to five other firefighters during active suppression missions.

Curriculum Vitae Highlights.

- Assistant Editor—The *Wayne Law Review*, 2019–2020
 - Note published – Paul Matouka, *The Fundamental Right to Biological Integrity*, 67 WAYNE L. REV. 65 (2021).
 - Wayne State University – Jessup International Moot Court Team
 - First place oralist 2018 – 2019.
 - Chancellor 2019 – 2020.
 - Civil Procedure A Teaching Assistant for Justin Long, Fall 2018
 - Property Teaching Assistant for Professor John Mogk, Winter 2019 and Winter 2020
 - Research Assistant for Professor Blanche Cook, Winter 2019
 - Research Assistant for Professor William Ortman, Summer 2019
 - Recipient of the Freeman Fellowship to study public international law at the Hague Academy during summer 2019
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State Court Bar Admissions.

Michigan, November 2020

Federal Court Bar Admissions.

United States District Court of Michigan
Eastern District

Pro hac vice admission to:
United States District Court of Mississippi

Northern District

Education.

B.S. 2015 – Michigan State University

J.D. 2020 – Wayne State University
